Single Bench

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 5117 OF 2006

PETITIONER

Rakesh Kumar Thakur son of Late Indu Bhushan Thakur, Aged about 45 years, resident Of G 26, Civil Lines, Rajnandgaon (C.G)

P.R. No. 5140/26
Presented by Shri S.K. Pandey
dated 14/09/26

Versus

RESPONDENTS

1. Chhattisgarh Khadi tatha Gram Udyog Board, Raipur Through the Managing Director, Jeevan Beema Marg, Pandri, Raipur(C.G)

2. Manager (Gramodyog) Zila Panchayat, Rajnandgaon Chhattisgarh

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR 53

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 5117 of 2006

Petitioner : Rakesh Kumar Thakur

Versus

Respondent : Chhattisgarh Khadi Tatha Gram Udyog Board & another

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Shri Saurabh Pandey, Advocate for the petitioner.

ORDER

(19th September, 2006)

1. The petitioner was working on the post of Incharge District Inspector, Zila Panchayat Office, Rajnandgaon. On the allegations of having committed certain irregularities, the petitioner was placed under suspension under Rule 9 (1) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'the Rules, 1966'), vide order dated 19/21.10.2005 (Annexure P/3), passed by the Respondent No.1. By the impugned order, the petitioner was directed to handover the charge of the post to the Manager at Rajnandgaon.

2. The petitioner has filed this petition under Article 226/227 of the Constitution of India, challenging validity of the impugned suspension order dated 19/21.10.2006.

3. Learned counsel appearing for the petitioner impugns the order of suspension on the ground that although there is a mention of certain irregularities in the impugned order but it is not specified as to whether any departmental enquiry is pending or under contemplation. Learned counsel further submits that when the

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charge sheet was not served to the petitioner even after lapse of 45 days, the petitioner submitted an application on 7.12.2005 (Annexure P/4) seeking joining on the post. Thereafter the charge sheet dated 7/14.12.2005 (Annexure P/6) was served on the petitioner on 20.12.2005, containing article of charges, statement of imputations of misconduct, a list of documents and a list of witnesses. The case of the petitioner is based solely on the ground that the order of suspension should be quashed on the ground that the charge sheet could not serve upon the petitioner within 45 days, as envisaged in Rule 9 of the Rules, 1966.

4. Learned counsel further submits that the order of suspension may be treated as revoked when the charge sheet etc. was not served within a period of 45 days.

5. Be that as it may, the petitioner has been served with the charge sheet containing article of charges, statement of imputations of misconduct, a list of documents and a list of witnesses on 60th day. First proviso to Rule 9 (2-a) provides for extension of period to the total period of 90 days for serving the charge sheet with an order from the State Government. It is not the case of the petitioner that no order of the State Government was obtained before expiry of 45 days from the date of the order of suspension.

6. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, he is not permitted to work keeping in view pendency of

departmental enquiry to avoid undue influence in the proceedings of departmental enquiry and likely tampering with on records.

7. Having heard learned counsel for the petitioner and having perused the petition and papers appended thereto, it is evident that the charge sheet has already been served on the petitioner. The suspension cannot be quashed on the ground that the same could not be served within 45 days when the extended period is 90 days, with prior order of the State Government. Thus, it is not necessary to go into the validity of the impugned suspension order.

8. The petition is accordingly dismissed. There shall be no order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur

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